

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Juan Arango	Team: Squad #15	CCRB Case #: 202107483	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/03/2021 6:15 AM	Location of Incident: Inside § 87(2)(b)	18 Mo. SOL 1/3/2023	Precinct: 42		
Date/Time CV Reported Thu, 12/09/2021 10:14 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 12/09/2021 10:14 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Edwin Reyesestrada	02874	967659	042 PCT
2. PO Yanardy Polanco	08363	967651	042 PCT
3. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Matthew Vinzo	31313	956320	SRG 2
2. PO Robert Picarello	25161	951055	SRG 2
3. PO Dili Jefferson	01283	965760	042 PCT
4. PO Jenny Pacheco	06628	966758	CCCS
5. PO Nikauri Terrero	02439	961364	042 PCT
6. PO Andrew Artemou	17203	960177	042 PCT
7. PO Carlos Diaz	04937	965703	042 PCT
8. PO Jesus Montesino	12595	960965	042 PCT
9. PO Dennis Gannon	23133	947015	SRG 2
10. PO Errol Murphy	24047	953161	SRG 1
11. PO Joseph Rinaldo	15394	966304	042 PCT
12. SGT Bradley Field	03550	932640	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Yanardy Polanco	Abuse: Police Officer Yanardy Polanco entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
B . PO Edwin Reyesestrada	Abuse: Police Officer Edwin Reyesestrada entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
C . PO Yanardy Polanco	Abuse: Police Officer Yanardy Polanco forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
D . PO Edwin Reyesestrada	Abuse: Police Officer Edwin Reyesestrada forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
E . Officers	Force: Officers tightly handcuffed § 87(2)(b)	§ 87(2)(b)

Case Summary

On December 9, 2021, § 87(2)(b) filed a complaint with the CCRB via phone.

On July 3, 2021, at approximately 10:00 a.m., § 87(2)(b) was inside his apartment, located at § 87(2)(b) in the Bronx, when he walked to the lobby of the building and encountered the superintendent of the building. The superintendent called 911, stated that he felt threatened and requested the police. Police Officer Yardany Polanco and Police Officer Edwin Reyes-Estrada, both from the 42nd Precinct responded to the incident location. At some point, PO Polanco pushed § 87(2)(b) apartment door open. PO Polanco and PO Reyes-Estrada entered § 87(2)(b) apartment (**Allegations A and B: Abuse of Authority – Entry of Premises**, § 87(2)(g) PO Polanco and PO Reyes-Estrada then began to place § 87(2)(b) in handcuffs. (**Allegations C and D: Abuse of Authority: Forcible removal to hospital**, § 87(2)(g) § 87(2)(b) resisted and additional officers got involved. During the handcuffing process, the officers allegedly fractured § 87(2)(b) wrists (**Allegation E: Force – Handcuffs too tight**, § 87(2)(g) § 87(2)(b).

At the end, § 87(2)(b) was transported to § 87(2)(b) Hospital in an ambulance.

§ 87(2)(b) was not arrested or issued any summonses.

The investigation obtained Body-Worn Camera (BWC) footage in regards to this incident (**Board Review 01**).

The investigation obtained the 911 tape in regards to this incident (**Board Review 16**).

§ 87(2)(b) medical records were obtain from § 87(2)(b) hospital (**Board Review 15**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Yanardy Polanco entered § 87(2)(b) in the Bronx.

Allegation (B) Abuse of Authority: Police Officer Edwin Reyes-Estrada entered § 87(2)(b) in the Bronx.

Allegation (C) Abuse of Authority: Police Officer Yanardy Polanco forcibly removed § 87(2)(b) to the hospital.

Allegation (D) Abuse of Authority: Police Officer Edwin Reyes-Estrada forcibly removed § 87(2)(b) to the hospital.

It is undisputed that PO Polanco and PO Reyes-Estrada entered § 87(2)(b) apartment upon opening the door, told § 87(2)(b) he was not under arrest and forcibly handcuffed him (**Board Review 03**).

During his CCRB interview, § 87(2)(b) stated that he went to lobby to meet with a friend while holding a 2-foot long black steel or aluminum curtain rod in his hand (**Board Review 17**). § 87(2)(b) friend had not arrived at the time. § 87(2)(b) observed the superintendent of the building who was mopping the floor. The superintendent complained to § 87(2)(b) that he could not stand in the lobby with a curtain rod. § 87(2)(b) and the superintendent engaged in a back and forth; during which, § 87(2)(b) told the superintendent that he had the right to be there. The superintendent then said that he felt threatened because § 87(2)(b) was holding the curtain rod and called 911. § 87(2)(b) then went back to his apartment. About a minute later, a group of 25 to 30 officers appeared outside the apartment. Several of them entered inside. § 87(2)(b) did not recall how they gained entry into the apartment. He did not recall if his door was open at the time. § 87(2)(b) did not mention any other civilians being inside the apartment with him. The officers instructed him to put his hands behind his back. § 87(2)(b) refused and kept his hands in front of him while maintaining his body still as he yelled and cursed at the officers. Multiple officers pulled § 87(2)(b) arms behind his back to place him in handcuffs while he kept moving his hands to the front and sides. At some point, § 87(2)(b) stopped refusing and the officers were able to secure the handcuffs.

The investigation obtained the 911 tape in regards to ICAD #§ 87(2)(b) (**Board**

Review 18) The audio begins with a male caller, the superintendent of the building, requesting police at § 87(2)(b) in the Bronx. The 911 operator asks for the apartment number and the male states says, “It’s § 87(2)(b) but the individual is here in the lobby.” The male caller adds, “I have a mentally disturbed individual here, on drugs, bugging out, being threatening. Like he wants to break windows and stuff.” The male caller then says, “They have been here and have taken him to the hospital before.” The 911 operator asks, “Mentally disturbed individual and you said he is on drugs?” The male caller says, “Yes. He is outside with no shirt on, sneakers, camel black pants, and he is a White male.” The 911 operator asks, “Does he seems violent? Does he have a weapon, sir?” The male caller states, “Yes. He has two pipes.”

The Event Information created for ICAD #§ 87(2)(b) shows that at 6:14 a.m., a male caller reported that there was a mentally disturbed white male tenant inside § 87(2)(b) who was on drugs, had no shirt on, and who appeared violent and was carrying two pipes (**Board Review 02**) At 6:15 a.m., an EMS unit was dispatched to the incident location.

PO Polanco’s BWC footage begins with PO Polanco and PO Reyes-Estrada arriving at the incident location and meeting with the superintendent of the building in the lobby (**Board Review 03**). The superintendent tells the officers that “he,” referring to § 87(2)(b) got into the elevator and went upstairs. PO Polanco asks the superintendent where § 87(2)(b) lives and the superintendent says “207. On the second floor.” At the 06:19:30 timestamp, the superintendent tells the officers that § 87(2)(b) has two pipes and he then rotates both of his index fingers in front of his temples. PO Reyes-Estrada simultaneously asks the superintendent if § 87(2)(b) threatened him and the superintendent says, “No. He didn’t threaten me.” PO Polanco asks the superintendent what § 87(2)(b) is wearing and he says, “No shirt, fatigue pants and I forgot what color of sneakers.” Right after, the superintendent indicates that § 87(2)(b) is White.

At the 06:20:35 timestamp of PO Polanco’s BWC footage, PO Polanco and PO Reyes-Estrada approaches the door (**Board Review 03**). PO Polanco stands on the right and PO Reyes-Estrada on the left side of the door. The apartment door is ajar at the time, but nothing can be seen through the gap, other than what appears to be a white wall. Nothing is heard coming from inside the apartment at the time. PO Polanco immediately pushes the door open and then knocks on it while she says, “police.” The officers then have an unobstructed view of the living room and kitchen. Simultaneously, a black male, who is standing in the kitchen, located on the left-hand side of the apartment door, looks at the officers and says, “Come in.” PO Polanco asks the male if he is the only one inside the apartment and § 87(2)(b) simultaneously approaches the door. § 87(2)(b) stands in front of the door and is captured holding what appears to be a cardboard box containing some liquid with his right hand while he holds onto the door with his left hand. PO Polanco asks § 87(2)(b) “What’s going on?” while PO Reyes-Estrada asks him to step outside. § 87(2)(b) says, “Nah, I just went downstairs.” PO Polanco steps into the apartment, approaches § 87(2)(b) and begins to grab his right wrist. Simultaneously, PO Reyes-Estrada follows PO Polanco and begins to grab § 87(2)(b) left wrist. PO Polanco attempts to bring § 87(2)(b) right arm behind his back while § 87(2)(b) says, “Excuse me. What happened?” PO Polanco says, “You are not under arrest. Turn around.” § 87(2)(b) appears to tense up his body while PO Polanco instructs him to turn around.

At the 06:20:59 timestamp of PO Jefferson’s BWC footage, after PO Reyes-Estrada and PO Polanco begins to bring § 87(2)(b) arms behind his back, § 87(2)(b) is captured taking a step forward, lunging against a wall and hitting his head against it (**Board Review 04**). Multiple officers are holding onto § 87(2)(b) arms while § 87(2)(b) is leaning forward against the wall. § 87(2)(b) begins to scream while the officers attempt to place him in handcuffs. At the 06:21:27 timestamp of PO Diaz’s BWC footage, while the officers are holding onto § 87(2)(b) arms, § 87(2)(b) raises his head and then brings it against a table that is underneath his body (**Board Review 05**). Right after, § 87(2)(b) yells, “You broke my nose” and begins to scream. A female voice says, “Watch out. He is trying to hit his head into the table.” § 87(2)(b) replies, “I am not hitting my head in the table.” The officers continue struggling to place § 87(2)(b) in handcuffs but § 87(2)(b) moves his

torso and legs. At the 06:21:47 timestamp, § 87(2)(b) yells at the officers, “Stop beating me up. No, you trying to kill me?” At the 06:22:02 timestamp, the officers secure the cuffs on § 87(2)(b) wrists and then bring him to the couch. At the 06:22:59 timestamp of PO Polanco’s BWC footage, PO Polanco tells § 87(2)(b) that he is not under arrest and ask him if he went downstairs wielding any weapons (**Board Review 03**). In response, § 87(2)(b) says, “No. I had a curtain hanger.” PO Polanco then says, “Come on. You are going to the ambulance.”

At the 06:23:09 timestamp of PO Jefferson’s BWC footage, after PO Polanco tells § 87(2)(b) that he is going to the ambulance, PO Polanco and PO Reyes-Estrada lift § 87(2)(b) by his arms while PO Murphy lifts § 87(2)(b) by his legs. The officers then carry § 87(2)(b) towards the elevator (**Board Review 04**). Between the 06:23:15 timestamp and the 06:25:02 timestamp of PO Reyes-Estrada’s BWC footage, § 87(2)(b) is carried to the elevator. He states that he put the curtain rod downstairs and asks the officers to let him walk (**Board Review 06**). § 87(2)(b) then begins to kick at the officers as he curses at them. The officers bring § 87(2)(b) outside to the ambulance. At the 06:25:39 timestamp, the officers place § 87(2)(b) inside the ambulance. At no point, § 87(2)(b) complains about his wrist being fractured.

During her CCRB interview, PO Polanco explained that upon speaking with the superintendent, she walked upstairs with PO Reyes-Estrada and other officers (**Board Review 07**). PO Polanco noticed that the door to § 87(2)(b) apartment was ajar and could see the edge of the door, but given that the door was almost closed, she could not see inside. PO Polanco did not hear anything coming from inside the apartment. PO Polanco then slowly pushed the door open. She explained that she took this action because the 911 call was categorized as a “violent EDP”, because the superintendent stated that the EDP had two metal rods, and because she did not know what was on the other side of the door. PO Polanco did not know whether § 87(2)(b) was going to charge at them or if he was harming himself. At this point, PO Polanco believed that § 87(2)(b) could have been a threat to himself or others. After § 87(2)(b) approached the door, PO Polanco began to exchange words with him. PO Polanco described this initial interaction as “normal.” PO Polanco stated that § 87(2)(b) appeared to be “a bit agitated” due to his tone of voice but he did not appear to be holding the alleged metal rods and she did not know where the metal rods were at the time. PO Polanco claimed that she could not fully see § 87(2)(b) torso because he was partially behind the door. PO Polanco decided to place § 87(2)(b) in handcuffs as a safety precaution until EMS arrived (**Board Review 07**). PO Polanco explained that she made this decision for everyone’s safety because she could not fully see § 87(2)(b) torso, she was not sure about § 87(2)(b) complete state of mind, she did not know what else was inside the apartment and because the 911 call was categorized as a “violent EDP.” There were no other reasons as to why PO Polanco decided to place § 87(2)(b) in handcuffs. PO Polanco stated that the plan at the time was to wait for EMS to evaluate § 87(2)(b) and determine if he needed to go to the hospital. Because § 87(2)(b) lunged against the wall and it took several officers to place him in handcuffs, PO Polanco believed that § 87(2)(b) was under the influence of some substance. This also led PO Polanco to believe that § 87(2)(b) was a threat to himself or others and that he probably needed to go to the hospital. PO Polanco stated that because of the 911 call, what took place inside the apartment, the fact that § 87(2)(b) admitted that he was downstairs with metal rods and the assumption that he was under the influence of something, the removal to the hospital was up to the officers’ discretion. Upon being presented with her BWC footage, between the 6:20:35 timestamp and the 06:20:51 timestamp, PO Polanco acknowledged being able to see § 87(2)(b) hands and stated that she was not sure at the time of the incident, but that after watching the video, it did not look like § 87(2)(b) had anything in his hands when he approached the door.

During his CCRB interview, PO Reyes-Estrada stated that the superintendent explained that § 87(2)(b) was holding two metal rods and was acting “crazy” (**Board Review 08**). PO Reyes-Estrada did not recall if the superintendent informed him about whether § 87(2)(b) had threatened anyone with the rods. PO Reyes-Estrada explained the plan was to investigate this given that this job involved an EDP with a weapon and that it was important for them to confirm the description

provided by the superintendent. PO Reyes-Estrada stated that depending on what took place with § 87(2)(b) they would either handcuff him and ask further questions or ask further questions and then place him in handcuffs, if necessary. Upon approaching the door, PO Reyes-Estrada observed that the door was slightly open but could not see inside due to his position. PO Reyes-Estrada could not hear anything coming from inside the apartment at the time. PO Reyes-Estrada did not believe § 87(2)(b) was a threat to himself at the time and stated that because the superintendent said that § 87(2)(b) had two rods, he believed § 87(2)(b) could possibly be a threat to others.

When asked if he ever believed there was an emergency inside the apartment, PO Reyes-Estrada said no, but stated that he was in a general state of alert because the information he received from the 911 call and the superintendent led him to worry that “anything” could happen (**Board Review 08**). PO Reyes-Estrada stated that § 87(2)(b) looked calm when he came to the door. PO Polanco then stepped into the apartment and PO Reyes-Estrada followed her to place § 87(2)(b) in handcuffs. PO Reyes-Estrada stated that given that this job involved weapons, they felt more comfortable placing § 87(2)(b) in handcuffs before they further investigate it. When asked if there was anything that § 87(2)(b) did that led them to place him in handcuffs, PO Reyes-Estrada said no. When asked if he knew § 87(2)(b) had to go to the hospital, PO Reyes-Estrada said no and explained that their focus was only to get § 87(2)(b) in handcuffs before they conduct a further investigation. Because § 87(2)(b) lunged at the wall, hit his head against it and claimed that the officers broke his nose and that they were cutting him, PO Reyes-Estrada believed that § 87(2)(b) was a threat to himself or others. When asked whose decision it was to remove § 87(2)(b) to the hospital, PO Reyes-Estrada stated that since they had to carry § 87(2)(b) downstairs to bring him to the ambulance, the decision to remove him has been already made. PO Reyes-Estrada stated that any questions EMS asked § 87(2)(b) were only after the officers had already brought him to the ambulance to be removed.

The investigation obtained the FDNY Pre-hospital Care Report (PCR) prepared by EMS on July 3, 2021 (**Board Review 15**). On pages 6, the report lists the reason for dispatching EMS as “EDPC. Psych patient violent/weapons.”

AIDED Report #§ 87(2)(b) prepared by PO Reyes-Estrada, notes that § 87(2)(b) was removed to the hospital for being emotionally disturbed, attempting to harm himself and others, for placing himself in dangerous situation and for being under suspected narcotic influence (**Board Review 19**). The AIDED notes that § 87(2)(b) was not sick or injured.

According to People v. Doll 21 N.Y.3d 665, the “emergency doctrine” recognizes that the Constitution is not a barrier to a police officer seeking to help someone in immediate danger, thereby excusing or justifying otherwise impermissible police conduct that is an objectively reasonable response to an apparently exigent situation. The exception is comprised of three elements: (1) the police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property and this belief must be grounded in empirical facts; (2) the search must not be primarily motivated by an intent to arrest and seize evidence; and (3) there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched (**Board Review 09**).

NYC §Administrative Code 14-173 (**Board Review 20**) – When a search of a person or premise is not conducted pursuant to a warrant, the officers are to articulate, using plain and simple language and to deliver in a non-threatening manner, that the person who is the subject of the search is being asked to consent to such search voluntarily, knowingly, and intelligently, and explaining that such search will not be conducted if such person refuses to provide consent.

PO Polanco’s decision to push the door open was solely based on her concern that the job involved a violent EDP who had carried two pipes earlier on and who had gone back to his apartment. Although the superintendent told the officers that § 87(2)(b) was an emotionally disturbed person who was carrying two pipes, the superintendent’s testimony is not sufficient given that he explicitly told the officers that § 87(2)(b) did not threaten him and did not provide any additional information about § 87(2)(b) conduct. PO Polanco did not make any observations that

indicated to her that there was an emergency inside the premises in that immediate moment which would have required her immediate assistance. Even though the black male inside the kitchen verbally stated, “come in,” neither officer provided § 87(2)(b) or the unidentified male an explanation for entering the apartment and they did not obtain consent as required by NYC Administrative Code §14-174. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Patrol Guide Procedure 221-13 (Board Review 11) states that an officer must take into protective custody and have removed to the hospital in an ambulance, any person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others.

Although PO Polanco and PO Reyes-Estrada stated that they decided to place § 87(2)(b) in handcuffs due to safety concerns based on how the job was categorized and the superintendent’s statement, other than § 87(2)(b) being described as a “violent EDP,” who had two metal pipes or rods, the officers did not obtain any additional information that would have indicated to them that § 87(2)(b) was an imminent threat to himself or others. PO Reyes-Estrada even stated that he did not believe § 87(2)(b) to be a threat to himself prior to initiating the handcuffing process. PO Polanco described her initial interaction with § 87(2)(b) as “normal” while PO Reyes-Estrada stated that § 87(2)(b) was acting “calm” at the time. As captured on BWC footage, when § 87(2)(b) first approached the door, § 87(2)(b) was not conducting himself in a way that the officers would believe him to be a danger to himself. Even though § 87(2)(b) later attempted to harm himself, his behavior only changed after the officers initiated the handcuffing process. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (E) Force: Officers tightly handcuffed § 87(2)(b)

During his CCRB interview, § 87(2)(b) stated that the officers applying the handcuffs, caused his left wrist to fracture (**Board Review 17**).

At the 06:22:02 timestamp of PO Diaz’s BWC footage, the officers secure the cuffs on § 87(2)(b) wrists and then bring him to a couch (**Board Review 05**). The BWC footage does not depict § 87(2)(b) being hurt or complaining about any injuries or pain on his wrists.

§ 87(2)(b) medical records and AIDED report #§ 87(2)(b) do not show that § 87(2)(b) sustained any injuries or suffered any fracture (**Board Reviews 15 and 19**).

BWC videos capture the time frame in which § 87(2)(b) stated the allegation occurred and at no point, did § 87(2)(b) complain about suffering a fracture on his wrist. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegations not Pleaded

Despite § 87(2)(b) screaming on BWC footage that the officers broke his nose and that they “beat him up,” because § 87(2)(b) did not independently allege this force or injury during his CCRB statement, and because the BWC footage and § 87(2)(b) medical records do not document any such force or injury, the investigation did not plead any force allegations surrounding these claims.

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)

